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6 **UNITED STATES DISTRICT COURT**  
7 **WESTERN DISTRICT OF WASHINGTON**  
8 **AT SEATTLE**

9 EFREIN REYES ZARATE, a.k.a. EFREIN  
10 REYES,

11 Petitioner,

12 v.

13 BRYON WILCOX, *et al.*,

14 Respondents.

Case No. C11-245-RSM-JPD

REPORT AND  
RECOMMENDATION

15  
16 On February 14, 2011, petitioner, proceeding through counsel, filed a petition for writ of  
17 habeas corpus pursuant to 28 U.S.C. § 2241, which challenged his detention by the U.S.  
18 Immigration and Customs Enforcement. (Dkt. No. 1.) On March 7, 2011, however, the parties  
19 filed a Stipulation and Order of Dismissal, which indicates that petitioner was released from  
20 immigration custody on February 25, 2011. (Dkt. No. 6.) The parties agree that this matter has  
21 become moot and may be dismissed with prejudice and without award of attorney's fees or costs  
22 to either party. *Id.*

23 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of  
24 the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).  
25 "When a controversy no longer exists, the case is moot." *Id.* Because petitioner is no longer  
26 detained by ICE, the Court finds that petitioner's habeas petition is moot and should be

1 dismissed with prejudice and without award of attorney's fees or costs to either party. *See, e.g.,*  
2 *Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992)(holding that the District Court properly  
3 dismissed plaintiff's claims that had become either moot or unripe). A proposed Order  
4 accompanies this Report and Recommendation.

5 DATED this 8th day of March, 2011.

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8 JAMES P. DONOHUE  
9 United States Magistrate Judge  
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